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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,778	01/17/2002	Yoshio Itagaki	8021-1001	2672

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YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

EXAMINER

MOORE, JAMES K

ART UNIT	PAPER NUMBER
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2686

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DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/046,778

Applicant(s)

ITAGAKI, YOSHIO

Examiner

James K Moore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 9-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2,4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiesen et al. (U.S. Patent No. 6,317,598) in view of Hagerman et al. (U.S. Patent No. 6,539,010).

Regarding claim 1, Wiesen discloses a portable telephone system comprising a base station and a mobile station. The mobile station may simultaneously carry out a first communication with a first calling party through the base station, and a second communication with a second party through the base station. The first communication may be a voice or video transmission requiring a high speed channel, and the second communication may be an Internet connection which does not require a high speed channel, and uses a low speed channel. See col. 8, line 57 – col. 9, line 14 and col. 9, line 61 – col. 10, line 15. Wiesen does not disclose that the high speed channel and the low speed channel are included within one time divisional time slot.

Hagerman also discloses a portable telephone system. In the system, multiple communication channels are included within one time divisional time

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slot. See Figure 7(b) and col. 5, line 59 – col. 6, line 13. This increases the capacity of the portable telephone system. See col. 2, lines 1-3. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wiesen with Hagerman, such that the high speed channel and the low speed channel are included within one time divisional time slot, in order to maximize the capacity of the portable telephone system.

Regarding claim 2, Wiesen in view of Hagerman teaches all of the limitations of claim 1, and Wiesen also discloses that the first communication may be a speech communication. See col. 9, line 61 – col. 10, line 15.

Regarding claim 5, Wiesen in view of Hagerman teaches all of the limitations of claim 1, and Wiesen also discloses that the second communication may be an Internet browser service data communication. See col. 9, line 61 – col. 10, line 15.

Regarding claim 6, Wiesen in view of Hagerman teaches all of the limitations of claim 1. Furthermore, the features of the high speed channel having a bandwidth of 32 kbps and the low speed channel having a bandwidth of 3.2 kbps is merely a design choice.

3. Claims 3, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiesen et al. in view of Hagerman et al. as applied to claim 1 above, and further in view of well known prior art.

Regarding claim 3, Wiesen in view of Hagerman teaches all of the limitations of claim 1, and Wiesen also discloses that the mobile station may be

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used to access the Internet. See col. 9, line 61 – col. 10, line 16. Wiesen in view of Hagerman does not teach that the first communication is a PIAFS data communication. However, it is well known in the art that PIAFS is a protocol widely used in Japan providing high-speed Internet access to users of mobile stations. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Wiesen and Hagerman, such that the first communication is a PIAFS data communication, in order to provide high-speed Internet access to mobile station users located in Japan.

Regarding claim 4, Wiesen in view of Hagerman teaches all of the limitations of claim 1, but does not teach that the first communication is a facsimile data communication. However, it is well known in the art to transmit facsimile data with a mobile station. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Wiesen and Hagerman, such that the first communication is facsimile data communication, in order to provide the user of the mobile station with the ability to send and receive copies of documents with the mobile station.

Regarding claim 7, Wiesen in view of Hagerman teaches all of the limitations of claim 1, but does not teach that the portable telephone system is a PHS system. However, it is well known in the art that PHS is a portable telephone system predominantly used in Japan. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Wiesen and Hagerman, such that the invention is used in a PHS system, so that it can comply with the system standards used in Japan.

4. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent No. 5,280,630) in view of Hagerman et al.

Regarding claim 8, Wang discloses a communication method for a portable telephone system including a base station and a mobile station which communicate with each other by using time divisional time slots. The method comprises determining whether a high speed channel (one of the channels on a Preferred Channel List) is empty when a new service is requested from the base station to the mobile station. It is inherent that the service request is sent on a low speed channel (a signaling channel). The method also comprises assigning the new service to the high speed channel when the high speed channel is empty. See col. 3, lines 15-48 and col. 7, lines 27-52. Wang does not disclose that the high speed channel and the low speed channel are included within one time divisional time slot.

Hagerman also discloses a portable telephone system. In the system, multiple communication channels are included within one time divisional time slot. See Figure 7(b) and col. 5, line 59 – col. 6, line 13. This increases the capacity of the portable telephone system. See col. 2, lines 1-3. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wang with Hagerman, such that the high speed channel and the low speed channel are included within one time divisional time slot, in order to maximize the capacity of the portable telephone system.

Regarding claim 17, Wang in view of Hagerman teaches all of the limitations of claim 8. Furthermore, the features of the high speed channel having a bandwidth of 32 kbps and the low speed channel having a bandwidth of 3.2 kbps is merely a design choice.

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of Hagerman as applied to claim 8 above, and further in view of well known prior art.

Regarding claim 18, Wang in view of Hagerman teaches all of the limitations of claim 8, but does not teach that the portable telephone system is a PHS system. However, it is well known in the art that PHS is a portable telephone system predominantly used in Japan. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Wang and Hagerman, such that the invention is used in a PHS system, so that it can comply with the system standards used in Japan.

Allowable Subject Matter

6. Claims 9-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The present invention is directed to a communication method for a portable telephone system. The portable system includes a base station and a

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mobile station which communicate with each other by using one time divisional time slot including a high speed channel and a low speed channel. The method comprises determining whether or not the high speed channel is empty when a new service is requested from the base station to the mobile station using the low speed channel, and determining whether the new service is related to a first communication which requires the high speed channel or a second communication not requiring the high speed channel when the low speed channel is empty.

Claim 9 identifies the uniquely distinct feature “assigning said new service to said low speed channel, when said new service is related to said second communication.”

The closest prior art, Wang, discloses a communication method for a portable telephone system. The portable system includes a base station and a mobile station which communicate with each other by using a high speed channel and a low speed channel. The method comprises determining whether or not the high speed channel is empty when a new service is requested from the base station to the mobile station using the low speed channel, and determining whether the new service is related to a first communication which requires the high speed channel or a second communication not requiring the high speed channel when the low speed channel is empty. However, Wang fails to anticipate or render the above underlined limitations obvious.

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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Moore, whose telephone number is (703) 308-6042. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (703) 305-4379.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ken Moore

8/9/04

JKM

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8/9/04
LESTER G. KINCAID
PRIMARY EXAMINER